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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,039	06/25/2003	Bruce E. Thomas	3329.021US03	3931

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EXAMINER

JOHNSON, BLAIR M

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,039

Applicant(s)

THOMAS ET AL.

Examiner

Blair M. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment of 9/6/05.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 96-106 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 96-106 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

Claims 96-106 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In claim 96, the screen end portion is said to be "rigid". This is not adequately disclosed in the specification. The same is true with claim 101, except it is termed a "rigid screen attachment element". In claims 96 and 103, the "spline connector" is said to "slidable" for coupling. However, the "slidable" feature is attributed to the embodiments of Figs. 11A-F, as mentioned on page 11 of the specification. An alternative "spline" connection is mentioned on page 12 but a "slidable" feature is not mentioned in conjunction therewith. Claim 97 recites an "L-shaped" rigid screen end portion, also not properly disclosed. The same is true for claim 102, except to the different terminology, discussed above.

Claims 96-106 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The elements that make up the rigid screen end portion (attachment element, claim 101) and the screen insert coupling portion (interface element) is not understood and the claims will be addressed as best understood.

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In claim 96, the "spline connector" is said to be part of the screen insert coupling mechanism. However, the spline, as disclosed, is part of the screen end portion.

In claim 101, line 31, "one piece interface" is not consistent with "one piece interface element", line 30.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 101 and 102 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Johnson.

In Johnson, see header, jambs and sill 12, first track 112, and second track 114, screen engaging element (walls of the tracks), roller assembly 30, fabric module 34, fabric 36, insert 16, and screen attachment element 40, interface element 44,46, having a channel that engages the insert 16 and an abutment surface 44. The stop positions are the fully extended and fully retracted positions. A portion of 40,42,44, is L-shaped.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 96,97 and 103 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Moyet-Ortiz.

In Johnson, see header, jambs and sill 12, first track 112, and second track 114, screen engaging element (walls of the tracks), roller assembly 30, fabric module 34, fabric 36, insert 16, and screen insert coupling mechanism 40. Johnson does not show the slidable spline connection, which is ambiguous as discussed above, but is considered the manner in which the screen end is fixed to insert coupling 40. Slidable "splines" are known, as illustrated by Moyet-Ortiz, Fig. 1. It would have been obvious to use this type of connection to attach the free end of the screen of Johnson to the insert so as prevent disengagement. Johnson states that the screen is attached "across it's width", column 2, line 27, to the coupling element 40, thereby indicating that such extends into the tracks. The stop positions are the fully extended and fully retracted positions. A portion of 40,42,44, is L-shaped.

Claims 98 and 99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Moyet-Ortiz as applied above, and further in view of Ralph et al.

Ralph et al discloses that it is old to provide counterbalances, 60-63, and latches 100 on sliding sashes in a door. It would have been obvious to modify Johnson to have these features so as to improve operation and hold the sash in position.

Claim 100 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Moyet-Ortiz as applied above, and further in view of Kemp.

While Johnson states that his housing 34 is attached "in any convenient manner", column 2, lines 24-25, which would include a well known easily detachable connection,

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Kemp further discloses a housing which is removably attached to the frame of the closure. It would have been obvious to provide such a feature for Johnson to permit replacement of the screen or removal of the housing.

Claims 104 and 105 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Ralph et al.

Ralph et al is applied here as above.

Claim 106 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Kemp.

Kemp is applied here as above.

Response to Arguments


Applicant's arguments have been considered but are moot in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (571) 272-6830. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Blair M. Johnson
Primary Examiner
Art Unit 3634

BMJ
9/14/05